

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.04.2017

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THE HONOURABLE MR. JUSTICE S.NAGAMUTHU
and

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

H.C.P No.293 of 2017

S. Bhoopathy

.. Petitioner

Vs

1.The State rep by
The Joint Commissioner of Police,
St. Thomas Mount,
Chennai – 600 016

2. The Inspector of Police,
S-8, Adambakkam Police Station,
Chennai – 600 088

3. Ms.Nisha
Respondents

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Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue an Order, direction or writ in the nature of a Writ of Habeas Corpus directing the respondents 1 and 2 to produce the children Ms.Rubika Boopathy and Ms.Rushmika Boopathy who have been kept under illegal custody in an orphanage at Coimbatore before this Court and set them at liberty forthwith.

For Petitioner : Mr.R. Natarajan

For R.1 & R.2 : Mr.V.M.R. Rajentren
Additional Public Prosecutor

For R.3 : Not yet served

ORDER

(Order of the Court was made by **S. NAGAMUTHU,J.,**)

This petition has been filed by the petitioner alleging that two minor children by name Ms.Rubika Boopathy and Ms.Rushmika Boopathy are now illegally detained by the third respondent in Kerala State.

2. The petitioner has made appearance today before us along with his counsel. We have enquired him and also have gone through the affidavit. It is the case of the petitioner that the third respondent was an Orphan. Taking sympathy on her, according to the petitioner, he allowed her to stay at his house to do the household work. But because of the proximity inside the house between the petitioner and the third respondent, the third respondent became pregnant. It is only thereafter, the third respondent started showing her real colour. The petitioner also submitted that the third respondent told the petitioner that she has two sisters in Kerala and she also went to Kerala for her delivery and delivered these two children as twins by name Ms.Rubika Boopathy and Ms.Rushmika Boopathy.

3. After that, according to the petitioner, his children were with the petitioner at Chennai. When they were 1 ½ years old, the third

respondent, along with her men, attacked him and took away the children. The petitioner stated that he made a complaint to Adambakkam Police Station in the year 2011, but there was no action. He would further state that he went in search of the children in Kerala and made a complaint in a Police Station at Kerala in the year 2014. Even thereafter, the children have not been secured. The petitioner further told that the children are kept in Orphanage. Therefore, the petitioner has come up with the present habeas corpus petition.

4. From the above statement made by the petitioner, both in person as well as through the affidavit, filed in support of the petition, we find there is no illegal detention of the children. After all, the children are with their mother. Petitioner does not even admit any marriage between him and the third respondent. He told us that the third respondent is only a concubine. Such a man, after six years, has approached this Court with this habeas corpus petition, which according to us, is not only an exercise in futility, but also as an exercise of waste of time of the Court.

5. In view of the same, we hold that the petitioner is not entitled to the relief, as prayed for and we deem it appropriate to impose cost on the petitioner.

6. In the result, the habeas corpus petition is dismissed with a

cost of Rs.2,000/-(Rupees two thousand only) to be paid by the petitioner to the High Court Legal Aid Services Authority.

S.NAGAMUTHU,J.,

And
Dr.ANITA SUMANTH,J.,

sr

7. The petitioner is directed to report this Court on 24.04.2017 that he has paid Rs.2,000/-(Rupees two thousand only) before the High Court Legal Aid Services Authority.

8. The Registry shall list the matter on 24.04.2017 for reporting compliance.

(S.N.J.,) (A.S.M.J.,)
21-04-2017

sr

Speaking Order/Non-speaking Order
Index:yes/no
website:yes/no

Note: Issue Order copy Today

To

1. The Joint Commissioner of Police,
St. Thomas Mount,
Chennai – 600 016
2. The Inspector of Police,
S-8, Adambakkam Police Station,
Chennai – 600 088

3. The Public Prosecutor, High Court, Chennai

HCP No.293 of 2017